IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):   Marko VANSKA, et al.

Serial No.:   09/824,781

Filed: April 4, 2001

For: OPERATING USER PROFILES WITH DISTRIBUTED PROFILE MODEL
USING A HYBRID TERMINAL

Group Art Unit: 2143

Examiner: Joseph E. AVELLINO

SUPPLEMENTAL APPEAL BRIEF

Mail Stop: <u>Appeal</u>
Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Appellants submit this brief in support of its notice of appeal filed on January 5, 2007. The appeal is from the decision of the Examiner in an Office Action mailed July 6, 2006 ("Final Office Action"), which finally rejected all claims in the above-identified utility patent application, and further in view of the decision from a pre-appeal brief conference request for review, the response to which was mailed March 9, 2007. Enclosed herewith is the requisite fee under §1.17(c). The commissioner is authorized to charge any additional fees necessitated by this Brief to our deposit account no. 13-4500 (Order No. 4208-4007).

Based on the arguments presented herein, Appellants respectfully request that the Board of Patent Appeals and Interferences order that the Final Rejection of July 6, 2006 be withdrawn.

I.   REAL PARTY IN INTEREST

The real party in interest of the patent application on appeal is its assignee, NOKIA CORPORATION ("Nokia"), a corporation of Finland. All right, title and interest to the above-identified patent application was assigned by the inventors, i.e., MARKO VÄNSKÄ, IAN NORDMAN, MIKA KLEMETTINEN, HANNU TOIVONEN, ANTTI SORVARI, YKÄ HUHTALA and JUKKA-PEKKA SALMENKAITA, to Nokia in an assignment document executed on 7/23/01. 7/23/01, 8/13/01, 8/13/01, 8/06/01, 7/24/01 and 8/6/01 respectively, which assignment was recorded in the Patent and Trademark Office on August 29, 2001, Reel 012131/Frame 0828.

II.   RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to the Appellants, the Appellants' legal representative, or assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III.   STATUS OF THE CLAIMS

There are 39 claims pending in this application, numbered 1-39. Claims 1-39 stand rejected. The claims appealed are 1-39. A complete copy of the claims involved in the appeal is attached hereto.

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IV.   STATUS OF AMENDMENTS

      There were no claim amendments filed after the Final Rejection of July 6, 2006.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

      The following summary groups together similar claims and includes supporting exemplary citations in the specification and/or drawing figures in accordance with 37 C.F.R. § 41.37 (c)(v):

A.   <u>CLAIM 1:</u>

      Claim 1 is drawn to a method of managing user privacy in a network environment. The claim includes at least the following limitations that find support in the disclosure as follows:

      (1) recognizing one or more service opportunities of a service operator on a user device operated by a user [see e.g., pp. 1 (lines 15-17), 8 (lines 17 et seq.), 10 (lines 5-6), 15 (line 8), 17 (line 12), 19 (line 12-19), 37 (lines 3-12), and Figs. 1 (network system 100), 3A (Service Discovery 344), and 8A (step 808)];

      (2) determining a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities of the service operator [see e.g., pp. 1 (lines 17-18), 2 (lines 12-17), 7-10, 13 (line 19) to 14 (line 1), 17 (lines 3-6), 19 (line 12) to 20 (line 5), 23 (lines 6-12), 32 (line 5) to 33 (line 32), 37 (lines 8-12), 39 (lines 3-11), 40 (lines 13-20) and 43 (lines 7-8), and

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Figs. 1 (network system 100), 3A (privacy management 372) and 8A-8D)]; and

(3) conducting the communications with the service operator at the privacy level [see e.g., pp. 1 (lines 17-18), 2 (lines 12-17), 7-10, 13 (line 19) to 14 (line 1), 17 (lines 3-6), 19 (line 12) to 20 (line 5), 23 (lines 6-12), 32 (line 5) to 33 (line 32), 37 (lines 8-12), 39 (lines 3-11), 40 (lines 13-20) and 43 (lines 7-8), and Figs. 1 (network system 100), 3A (privacy management 372) and 8A-8D)].

In claim 1, the recognizing operation occurs before the determining and the conducting operations, and the claimed recognizing, determining and conducting operations are performed with respect to the same service operator or in the context of a service opportunity of the same service operator.

B.   **CLAIM 34:**

Claim 34 is drawn to a method of managing user privacy in a network environment through a distributed user system including a user device and profile operator. This claim includes at least the following limitations that find support in the disclosure as follows:

(1) recognizing one or more service opportunities of a service operator on a user device operated by a user; [see e.g., pp. 1 (lines 15-17), 8 (lines 17 et seq.), 10 (lines 5-6), 15 (line 8), 17 (line 12), 19 (line 12-19), 37 (lines 3-12), and Figs. 1 (network system 100), 3A (Service Discovery 344) and 8A (step 808)]

(2) determining a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities on the user device; [see e.g., pp. 1 (lines 17-18), 2 (lines 12-17), 7-10, 13 (line 19) to 14 (line 1), 17 (lines 3-6), 19 (line 12) to 20 (line 5), 23 (lines 6-12), 32 (line 5) to 33 (line 32), 37 (lines 8-12), 39 (lines 3-11), 40 (lines 13-20) and 43 (lines 7-8), and Figs. 1 (network system 100), 3A (privacy management 372) and 8A-8D)]

(3) determining a profile access level on the user device; [see e.g., pp. 2 (lines 4-11, 20-21), page 3 (lines 1-13), 10 (line 13) to 11 (line 6), 37 (lines 13-19), 39 (lines 3-11), 40 (lines 13-19) and Figs. 1 (network system 100), 3A-C (privacy management 372), 6A, 6B, 7A, 7B, 8C (steps 850 and 852) and 8D (step 882)]

(4) transmitting the profile access level to the service operator; and [see e.g., pp. 2 (lines 4-11, 20-21), page 3 (lines 1-13), 10 (line 13) to 11 (line 6), 37 (lines 13-19), 39 (lines 3-11), 40 (lines 13-19) and Figs. 1 (network system 100), 3A-C (privacy management 372), 6A, 6B, 7A, 7B, 8C (step 852) and 8D (step 883)]

(5) enabling the service operator to obtain a subset of profile information of the user from a profile operator according to the profile access level. [see e.g., pp. 2 (lines 4-11, 20-21), page 3 (lines 1-13), 10 (line 13) to 11 (line 6), 39 (lines 12-

20), 41 (lines 1-6) and Figs. 1 (network system 100), 3A-C (privacy management

372), 6A, 6B, 7A, 7B, 8C (steps 850 and 852) and 8D (steps 885)]

The recognizing operation occurs before the determining a privacy level, the determining a

profile access level, the transmitting and the enabling operations.

    C.   **<u>CLAIM 37:</u>**

        Claim 37, drawn to a communications device. The claim includes at least the

following limitations that find support in the disclosure as follows:

        (1)   a communications interface for communicating across a network

environment; [see e.g., pp. 6 (lines 3-14) and 19 (lines 3-6), and Figs. 1B (device

110), 3A (radio 310)]

        (2)   a memory; and [see e.g., p. 19 (lines 3-6), and Figs. 1B (device 110), 3A

(memory 330)]

        (3)   a processor that executes instructions stored in the memory for: [see e.g.,

p. 19 (lines 3-6), and Figs. 1B (device 110), 3A (processor 320)]

        (4)   recognizing one or more service opportunities of a service operator on a

user device operated by a user [see e.g., pp. 1 (lines 15-17), 8 (lines 17 et seq.), 10

(lines 5-6), 15 (line 8), 17 (line 12), 19 (line 12-19), 37 (lines 3-12), and Figs. 1

(network system 100), 3A (Service Discovery 344), and 8A (step 808)],

(5)   determining a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities of the service operator [see e.g., pp. 1 (lines 17-18), 2 (lines 12-17), 7-10, 13 (line 19) to 14 (line 1), 17 (lines 3-6), 19 (line 12) to 20 (line 5), 23 (lines 6-12), 32 (line 5) to 33 (line 32), 37 (lines 8-12), 39 (lines 3-11), 40 (lines 13-20) and 43 (lines 7-8), and Figs. 1 (network system 100), 3A (privacy management 372) and 8A-8D)], and

(6)   conducting the communications with the service operator at the privacy level through the communications interface [see e.g., pp. 1 (lines 17-18), 2 (lines 12-17), 7-10, 13 (line 19) to 14 (line 1), 17 (lines 3-6), 19 (line 12) to 20 (line 5), 23 (lines 6-12), 32 (line 5) to 33 (line 32), 37 (lines 8-12), 39 (lines 3-11), 40 (lines 13-20) and 43 (lines 7-8), and Figs. 1 (network system 100), 3A (privacy management 372) and 8A-8D)].

The recognizing operations occurs before the determining and the conducting operations.

D.   <u>CLAIM 38:</u>

Claim 38, drawn to a system. The claim includes at least the following limitations

that find support in the disclosure as follows:

      (1)   a communications device of a user including: [see e.g., p. 19 (lines 3-6), and Figs. 1A (device 110), 1B (device 110), 3A (memory 330)]

      (2)   a communications interface for communicating across a network environment, [see e.g., p. 6 (lines 3-14) and 19 (lines 3-6), and Figs. 1B (device 110), 3A (radio 310)]

      (3)   a memory, and [see e.g., p. 19 (lines 3-6), and Figs. 1B (device 110), 3A (memory 330)]

      (4)   a processor that executes instructions stored in the memory for: [see e.g., p. 19 (lines 3-6), and Figs. 1B (device 110), 3A (processor 320)]

      (5)   recognizing one or more service opportunities of a service operator, [see e.g., pp. 1 (lines 15-17), 8 (lines 17 et seq.), 10 (lines 5-6), 15 (line 8), 17 (line 12), 19 (line 12-19), 37 (lines 3-12), and Figs. 1 (network system 100), 3A (Service Discovery 344) and 8A (step 808)]

      (6)   determining a privacy level at which communications is conducted with

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the service operator relating to the one or more service opportunities, [see e.g., pp. 1 (lines 17-18), 2 (lines 12-17), 7-10, 13 (line 19) to 14 (line 1), 17 (lines 3-6), 19 (line 12) to 20 (line 5), 23 (lines 6-12), 32 (line 5) to 33 (line 32), 37 (lines 8-12), 39 (lines 3-11), 40 (lines 13-20) and 43 (lines 7-8), and Figs. 1 (network system 100), 3A (privacy management 372) and 8A-8D)]

(7)   determining a profile access level and transmitting the profile access level to the service operator; and [see e.g., pp. 2 (lines 4-11, 20-21), page 3 (lines 1-13), 10 (line 13) to 11 (line 6), 37 (lines 13-19), 39 (lines 3-11), 40 (lines 13-19) and Figs. 1 (network system 100), 3A-C (privacy management 372), 6A, 6B, 7A, 7B, 8C (steps 850 and 852) and 8D (step 882)]

(8)   a profile operator for providing the service operator with a subset of profile information of the user according to the profile access level. [see e.g., pp. 2 (lines 4-11, 20-21), page 3 (lines 1-13), 10 (line 13) to 11 (line 6), 39 (lines 12-20), 41 (lines 1-6) and Figs. 1A and B (network system 100), 3A-C (privacy management 372), 4 (service operator 130), 5 (profile operator 115), 6A, 6B, 7A, 7B, 8C (steps 850 and 852) and 8D (steps 885)]

The recognizing operation occurs before the determining a privacy level, the determining a

profile access level, and the transmitting operations.

    E.   **CLAIM 39:**

        Claim 39, drawn to a server of a service operator. The claim includes at least the following limitations that find support in the disclosure as follows:

        (1)   a communications interface for enabling communications across a network environment with a user device operated by a user relating to one or more service opportunities of the service operator; [see e.g., pp. 6 (lines 3-14), and Figs. 1A (SO 130), 1B (SO 130), 4 (network adapter 410)]

        (2)   a memory; and [see e.g., p. 24 (line 4), and Figs. 1A (SO 130), 1B (SO 130), 4 (memory 430)]

        (3)   a processor that executes instructions stored in the memory for: [see e.g., p. 25 (line 18), and Figs. 1A (SO 130), 1B (SO 130), 4 (processor 420)]

        (4)   receiving information corresponding to a profile access level of the user; and [see e.g., p. 39 (lines 12-13), and Fig. 8C (Step 856)]

        (5)   obtaining from a profile operator a subset of profile information of the user according to the profile access level, [see e.g., p. 39 (lines 14-17), and Fig.

8C (Steps 858-860)]

(6)　　wherein the user device is configured to recognize one or more service opportunities of a service operator [see e.g., pp. 1 (lines 15-17), 8 (lines 17 et seq.), 10 (lines 5-6), 15 (line 8), 17 (line 12), 19 (line 12-19), 37 (lines 3-12), and Figs. 1 (network system 100), 3A (Service Discovery 344), and 8A (step 808)],

(7)　　to determine a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities, to determine a profile access level, and to transmit the profile access level to the service operator. [see e.g., pp. 1 (lines 17-18), 2 (lines 12-17), 7-10, 13 (line 19) to 14 (line 1), 17 (lines 3-6), 19 (line 12) to 20 (line 5), 23 (lines 6-12), 32 (line 5) to 33 (line 32), 37 (lines 8-12), 39 (lines 3-11), 40 (lines 13-20) and 43 (lines 7-8), and Figs. 1 (network system 100), 3A (privacy management 372) and 8A-8D)]

The recognizing operation occurs before the determining a privacy level, the determining a profile access level, and the transmitting operations.

F.　　**DEPENDENT CLAIMS 4-9:**

Claim 4 recites that the recognizing comprises anonymously obtaining information relating to the one or more service opportunities. [See e.g., pp. 8 (line 17) to page 9

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(line 2) and 37 (lines 8-12)]

Claim 5 recites that the information relating to the one or more service opportunities comprises one of a service category, a service description and a requested viewpoint. [See e.g., pp. 2 (lines 4-5), 10 (lines 8-12), 37 (lines 13-19), 42 (lines 19-21)]

Claim 6 recites allowing the service provider to obtain access to a subset of profile information of the user according to the service category. [See e.g., pp. 40 (line 15) to 41 (line 9), and Figs. 7A, 7B, 8D (steps 882, 883, 885-888)]

Claim 7 recites providing personalized service to the user according to the subset of profile information. [See e.g., pp. 26 (lines 14-17), 41 (lines 7-17) and Figs. 4 (personal service application 460), 8D (steps 888-890)]

Claim 8 recites allowing the service provider to obtain a subset of profile information of the user according to the requested viewpoint. [See e.g., pp. 35 (line 6) to 36 (line 12), and Figs. 7A, 7B, 8D (steps 882, 883, 885-888)]

Claim 9 recites providing personalized service to the user according to the subset of profile information. [See e.g., pp. 26 (lines 14-17), 41 (lines 7-17) and Figs. 4 (personal service application 460) and 8D (steps 888-890)]

G.   **DEPENDENT CLAIM 21:**

Claim 21 is a dependent method claims in which the allowing the service provider operation comprises: determining a profile access level; and transmitting the profile access level to the service operator. The service operator obtains a subset of profile information from a

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profile operator according to the profile access level.

The above-noted limitations of claim 21 find support in the disclosure in a similar fashion as provided above with respect to the corresponding limitations of claim 34.

H.   DEPENDENT CLAIM 23:

Claim 23 is a dependent claim in which the determining a profile access operation determines the profile access level based upon a prior arrangement between the service operator and the user. [See e.g., pp. 39 (line 3) to 40 (line 9), and Figs. 7A, 7B and 8C (steps 850-868)]

I.   DEPENDENT CLAIM 27:

Claim 27 is dependent claim further comprising tracking user activity on the user device, wherein the profile information of the user is updated based on the tracked user activity. [See e.g., pp. 3 (lines 14-15), 21 (line 7) to 22 (line 12), 38 (line 18) to 39 (line 2), 40 (lines 8-12) and Figs. 3A-3C (Profile Capturing 370), 8B (step 844) and 8C (steps 870, 872)]

J.   DEPENDENT CLAIM 28:

Claim 28 is a dependent claim in which the service opportunities recognized by the user are dynamically changed by the service provider. [See e.g., p. 3 (lines 16-18)]

K.   DEPENDENT CLAIM 36:

Claim 36 is a dependent claim in which the user device controls what information is sent from the device according to the privacy level. [See e.g., p. 39 (lines 5-11) and 40 (lines 17-20), and Figs. 8C (step 852) and 8D (steps 883)]

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VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal include whether:

1.   Claims 1-18, 21-25, 31-32 and 34-39 are obvious under 35 U.S.C. § 103(a) in view of Doi et al. (US 2001/0014911) and Lunsford et al. (US 6,982,962).

2.   Claim 33 is obvious under 35 U.S.C. § 103(a) in view of Doi and Lunsford and further in view of Carothers et al. (US 2002/0069117).

3.   Claim 29 is obvious under 35 U.S.C. § 103(a) in view of Doi and Lunsford and further in view of Owen et al. (US 6,611,501).

VII.   ARGUMENT

Claims 1-18, 21-25, 31-32 and 34-39 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Doi et al. (US 2001/0014911) in view of Lunsford et al. (US 6,982,962). Claim 33 is rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Doi in view of Lunsford and further in view of Carothers et al. (US 2002/0069117). Claim 29 is rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Doi in view of Lunsford and further in view of Owen et al. (US 6,611,501).

The Appellants respectfully submit that the cited references, individually or in combination, do not render obvious claims 1-39 for the reasons set forth below.

Section 103(a) of Title 35 of the U.S. patent law states:

(a) A patent may not be obtained though the
invention is not identically disclosed or described as

> set forth in section 102 of this title, if the
> differences between the subject matter sought to be
> patented and the prior art are such that the subject
> matter as a whole would have been obvious at the
> time the invention was made to a person having
> ordinary skill in the art to which said subject matter
> pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

In evaluating the issue of obviousness, the following inquiry is conducted: "(A) Determining the scope and contents of the prior art; (B) Ascertaining the differences between the prior art and the claims in issue; (C) Resolving the level of ordinary skill in the pertinent art; and (D) Evaluating evidence of secondary considerations." <u>See</u> MPEP § 2141 (citing <u>Graham v. John Deere</u>, 383 U.S. 1, 148 USPQ 459 (1966)).

A.   **<u>Claims 1 and 37-39 Are Non-Obvious:</u>**

Claim 1 is directed to a method involving (1) recognizing one or more service opportunities of a service operator on a user device operated by a user; (2) determining a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities of the service operator; and (3) conducting the communications with the service operator at the privacy level. As reflected in claim 1, the recognizing operation occurs before the determining and the conducting operations, and the recognizing, determining and conducting are performed with respect to the same service operator or in the context of a service opportunity of the same service operator.

Appellants respectfully submit that the cited references, individually or in combination, do not render obvious the method of claim 1 as a whole.

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1.   **The Combination of Doi and Lunsford Still Do Not Render Obvious the Subject Matter of Claim 1 as a Whole**

The primary reference Doi describes a system in which a user through a mobile terminal is able to obtain services, such as a user non-identification or identification service, from a service provider across a network connection via the Internet. See Doi, Fig. 11. In operation, the mobile terminal sends a service request to the *already known* service provider (and its services) across the wireless network 18, gateway 19 and Internet 20. Thus, the mobile terminal 10 does not perform any recognizing of one or more service opportunities of the location dependent service provider or such recognizing occurring before the determining and conducting operations. Lunsford does not remedy these deficiencies in the teaching of Doi.

The secondary reference Lunsford is directed to a system and method for selecting a network access provider using a portable information device (PID). In Lunsford, the PID is able to detect and select a network access provider, manually or automatically, to establish a network connection. That is, Lunsford simply deals with establishing network connection and does not deal with services available across the connection (e.g., Internet) such as in Doi or the recognition of such services.

Accordingly, even assuming for argument sake that Doi and Lunsford may be combined, the resulting combination still would not render obvious the subject matter of claim 1 as a whole. Instead, if combined, the resulting system or method would simply allow the mobile terminal of Doi to be able to detect and select a network access or network access provider (as taught in Lunsford) to access the Internet and thereafter through the selected network access send

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a service request to the already known service provider (and its services) as in Doi across the

Internet. The resulting combination still would <u>not</u> disclose the claimed recognizing operation or

the operations of the recognizing, determining and conducting being performed with respect to

the <u>**same**</u> service operator or service opportunit(ies).

2. **The Rejection of Claim 1 Lacks Any Rational Underpinning to**
Support the Legal Conclusion of Obviousness

In the Advisory Action of November 11, 2006 to rebut Applicants' arguments, the

Examiner newly contends that Doi and Lunsford renders obvious the claimed inventions, as

follows:

> As to point (1) taken in the context of Lunsford
> modified by Doi, Lunsford would receive the
> services provided by the service provider (via the
> services discovery protocol layer 260) via an
> inquiry page wherein the page is done anonymously
> (¶29), once the appropriateness of the service
> provider is ascertained, as well as the security level
> supplied by the provider in conjunction with the
> preferences of the user, the dynamic profile
> provisioning system of Doi would filter the profile
> based on the type of transaction (Doi: Figure 12;
> ¶69) thereby conducting communications at the
> ascertained privacy level. By this rationale, the
> combination of Lunsford in view of Doi clearly
> meet the claimed invention, and therefore the
> rejection is maintained.

The Examiner however provides nothing in the way of a rationale for this new

"modification" of Lunsford in view of Doi and how such a modification is reached based on the

teachings of the references. Further, notwithstanding the bases upon which the Examiner has

modified Lunsford in view of Doi (as cited above), the Examiner does not set forth how this new

modification reads on the subject matter of claim 1 as a whole, namely the recognizing, the

determining and the conducting operations in the context of the same service operator.

        Furthermore, this new "modification" of Lunsford in view of Doi is not based on

an evaluation of the cited references as a whole or in their proper context, but rather is based on

an arbitrary picking and choosing from the cited references. As would be understood by one of

ordinary skill in the art, the cited references Doi and Lundsford relate to different types of

services and environments. Doi deals with service opportunities or services which may be

accessed across a ***network connection*** (e.g., the Internet) via a request, whereas Lundsford deals

with the detection and establishment of a ***network connection***. As such, one of ordinary skill in

the art would not conclude that Doi and Lundsford renders obvious the operations of the

recognizing, determining and conducting as performed with respect to the **<u>same</u>** service operator

or service opportunit(ies).

        In view of the foregoing, it is respectfully submitted that the rejection of claim 1

lacks any rational underpinning to support the legal conclusion of obviousness. <u>See</u> In re Kahn,

441 F.3d 977, 988 (Fed. Cir. 2006) ("[R]ejections on obviousness grounds cannot be sustained

by mere conclusory statements; instead, there must be some articulated reasoning with some

rational underpinning to support the legal conclusion of obviousness.").

        3.   **The Rejection of Claim 1 Would Render Doi Unsatisfactory for its**
                    <u>Intended Purpose and Change its Principle Operation</u>

        The network access provider of Lunsford, as with the operator of the wireless

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gateway/access point in Doi, are communication network providers that are **different** than the service providing servers (the service provider) in Doi. That is, the service of network access and the service offered by the service providing servers in Doi are different services from different service providers. Interpreting the network access provider and the service providing server to be the same service operator would also be contrary to the privacy arrangement as claimed as well as in Doi since the operator of the "access point" or network access actually receives the User ID. Such an interpretation would render the prior art Doi unsatisfactory for its intended purpose and/or change the principle of operation of the Doi reference. See MPEP §2143.01.

In view of at least the foregoing, claim 1 and their dependent claims are distinguishable over the cited references, individually or in combination. For similar reasons, claims 37-39 and their dependent claims are also believed to be distinguishable over the cited references, individually or in combination.

B.   Claim 34 Is Non-Obvious:

Independent claim 34 is directed to a method involving recognizing one or more service opportunities of a service operator on a user device operated by a user; determining a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities on the user device; determining a profile access level on the user device; transmitting the profile access level to the service operator; and enabling the service operator to obtain a subset of profile information of the user from the profile operator according

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to the profile access level. The recognizing occurs before the determining a privacy level, the determining a profile access level, the transmitting and the enabling.

For similar reasons as discussed above for claim 1, claims 34 and its dependent claims are also believed to be distinguishable over the cited references, individually or in combination.

Further, for the reasons set forth below with reference to claim 21, the cited references also do not disclose or suggest transmitting the profile access level to the service operator; and enabling the service operator to obtain a subset of profile information of the user from a profile operator according to the profile access level, as recited in claim 34.

Accordingly, claim 34 and its dependent claims are distinguishable over the cited references.

C.   **<u>Dependent Claims 4-9 Are Non-Obvious:</u>**

Claim 4 recites that the recognizing comprises anonymously obtaining information relating to the one or more service opportunities. Claim 5 recites that the information relating to the one or more service opportunities comprises one of a service category, a service description and a requested viewpoint. Claim 6 recites allowing the service provider to obtain access to a subset of profile information of the user according to the service category. Claim 7 recites providing personalized service to the user according to the subset of profile information. Claim 8 recites allowing the service provider to obtain a subset of profile information of the user according to the requested viewpoint. Claim 9 recites providing

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personalized service to the user according to the subset of profile information.

   That is, the user device in the recognizing operation "*anonymously*" obtains information relating to the one or more services, such as a service category, a service description or a requested viewpoint.

   As best understood, the Examiner appears to rely on the dynamic user profile memory in Doi (e.g., para [0036]) and the second embodiment in Doi (Fig. 7 and paras [0056-62]) as to "user identifiable or user anonymous, location dependent or location independent" as allegedly showing a recognizing operation involving anonymously obtaining information such as service category. It is, however, apparent that these cited portions of Doi do not disclose or suggest the claimed recognizing operation involving *anonymously obtaining* information relating to the one or more service opportunities, such as service category. Indeed, as acknowledged by the Examiner, Doi is silent as to the recognizing operation. Thus, Doi is also silent as to the recognizing operation involving "*anonymously*" obtaining information relating to the one or more services, such as a service category, a service description or a requested viewpoint. The Office Actions and the Advisory Action do not adequately address these aspects, such as the anonymously obtaining, etc. as claimed, and do not address the claims as a whole but rather in an arbitrary, piecemeal fashion. As such, dependent claim 4 as well as claims 5-9 are further distinguishable over the cited references.

  D. <u>**Dependent Claim 21 Is Non-Obvious:**</u>

   Claim 21 further recites that the allowing the service provider comprises:

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determining a profile access level; and transmitting the profile access level to the service

operator, wherein the service operator obtains a subset of profile information from a profile

operator according to the profile access level.

As claimed, the "profile access level" and "subset of profile information" are

different information or data. That is, a service operator receives the determined profile access

level and, then, is able to obtain a subset of profile information from a profile operator according

to the determined profile access level.

On the contrary, as best understood, the Examiner appears to rely on the dynamic

user profile to read on the profile access level as well as a subset of profile information, which is

inconsistent with this claim when read as a whole. The Final Office Action does not adequately

address each aspect of this claim, including for example what is the profile access level

transmitted and the subset of profile information obtained according to the transmitted profile

access level. Thus, claim 21 is believed to be further distinguishable over the cited references,

individually or in combination.

E.   **Dependent Claim 23 Is Non-Obvious:**

Claim 23 further recites that the determining a profile access determines the

profile access level based upon a prior arrangement between the service operator and the user.

As best understood, the Examiner appears to rely somehow on "determining

whether to use a static or dynamic user profile" of Doi as reading on this claimed aspect. It is

however unclear how this determination in Doi pertaining to profiles is based on a "prior

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arrangement" between the service operator and the user.

Accordingly, claim 23 is further distinguishable over the cited references, individually or in combination.

F.   Dependent Claim 27 Is Non-Obvious:

Claim 27 further recites tracking user activity on the user device, wherein the profile information of the user is updated based on the tracked user activity.

The Examiner alleges that (1) servers can use tracking cookies in order to track users throughout their website, and in order for advertisers to determine which advertisements to transmit to the user; and (2) it would have been obvious to one of ordinary skill in the art to update the dynamic user profile of Doi to include tracking information in order to track users using the system as well as for logging and security systems, which is well known as being under constant attacks from hackers.

The Applicants respectfully disagree with the Examiner's rationale, particularly with respect to the underlying motivation and the alleged well known facts. Specifically, it is unclear how the alleged motivation of security and hackers and tracking for the sake of tracking is even proper in the context of the alleged well known facts and the teachings of Doi, since the cookies or making information available to advertisers themselves would not create more security but rather result in less security and user privacy, contrary to Doi. Thus, there is no rational reason provided by the Examiner in modifying Doi in the manner suggested by the Examiner.

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Accordingly, claim 27 is further distinguishable over the cited references, individually or in combination.

G.   Dependent Claim 28 Is Non-Obvious:

Claim 28 further recites that the service opportunities recognized by the user are dynamically changed by the service provider.

The Examiner asserts that the changing "service opportunities" are read upon by changing wireless gateways as the object moves around, as pertaining to Doi. However, as discussed with reference to claim 1, such an interpretation is inconsistent with the Examiner's position with regard to the user non-identification and identification service as being the "service opportunities" with respect to the other claimed aspects, such as the claimed determining and conducting operations. Thus, the cited references, as relied upon by the Examiner, are silent as to this claimed aspect as well.

Accordingly, claim 28 is further distinguishable over the cited references, individually or in combination.

H.   Dependent Claim 36 Is Non-Obvious:

Claim 36 is a dependent claim that is further directed to the user device controlling what information is sent from the device according to the privacy level. That is, as claimed, the user device controls what information is actually or is to be sent from the device.

On the contrary, the Examiner's assertion that the user controls what information the service provider "receives" still does not address control over what information (e.g., static

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profile, dynamic profile) is "sent from" the device, as claimed. <u>See</u> Final Office Action, pp. 7-8. As described in Doi, the wireless gateway 19 receives User ID, static profile and dynamic profile and selectively provides this information to the servers based on the communication control information table. <u>See</u> Doi, paras [0062]-[0063]. Accordingly, Doi also does not disclose or suggest that the user device controls what information is sent from the device according to the privacy level.

Accordingly, dependent claim 36 is further distinguishable over the cited references, individually or in combination.

VIII.   CONCLUSION

In view of the foregoing, the Examiner has not set forth adequate grounds in order to reject each of the claims 1-39, and Appellants believe that all pending claims are allowable. Appellants therefore request that the Examiner's rejection be <u>reversed</u>, the Final Office Action be withdrawn and all claims be allowed.

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<u>AUTHORIZATION</u>

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. <u>13-4500</u>, Order No. <u>4208-4007</u>. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. <u>13-4500</u>, Order No. <u>4208-4007</u>. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: _10/3/07_   By: _____

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EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.

PENDING CLAIMS APPENDIX

Claim 1. A method of managing user privacy in a network environment, comprising:

recognizing one or more service opportunities of a service operator on a user device operated by a user;

determining a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities of the service operator; and

conducting the communications with the service operator at the privacy level,

wherein the recognizing occurs before the determining and the conducting.

Claim 2. The method according to claim 1, wherein the recognizing comprises automatically discovering the one or more service opportunities.

Claim 3. The method according to claim 2, wherein the user device is a BLUETOOTH-enabled wireless communications device which automatically discovers service opportunities.

Claim 4. The method according to claim 1, wherein the recognizing comprises anonymously obtaining information relating to the one or more service opportunities.

Claim 5. The method according to claim 4, wherein the information relating to the one or

more service opportunities comprises one of a service category, a service description and a requested viewpoint.

Claim 6. The method according to claim 5, further comprising allowing the service provider to obtain access to a subset of profile information of the user according to the service category.

Claim 7. The method according to claim 6, further comprising providing personalized service to the user according to the subset of profile information.

Claim 8. The method according to claim 5, further comprising allowing the service provider to obtain a subset of profile information of the user according to the requested viewpoint.

Claim 9. The method according to claim 8, further comprising providing personalized service to the user according to the subset of profile information.

Claim 10. The method according to claim 1, wherein the privacy level includes one of Anonymous, Pseudonymous, Anonymous transaction and Authenticated.

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Claim 11. The method according to claim 1, wherein the determining a privacy level determines a privacy level based on the nature of the service negotiations with the service operator.

Claim 12. The method according to claim 1, wherein the determining a privacy level determines a privacy level based on a level of privacy in one or more prior transactions with the specific service operator.

Claim 13. The method according to claim 1, wherein the determining a privacy level determines a privacy level based on the identity of the service operator.

Claim 14. The method according to claim 1, wherein the determining a privacy level determines a privacy level based on user-defined parameters.

Claim 15. The method according to claim 1, wherein the determining a privacy level determines a privacy level based on the user's prior behavior or activity.

Claim 16. The method according to claim 1, further comprising obtaining a user identifier to conduct pseudonymous communications with the service operator relating to the one or more service opportunities.

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Claim 17. The method according to claim 12, further comprising allowing the service provider to obtain access to a predefined subset of profile information.

Claim 18. The method according to claim 1, further comprising allowing the service provider to obtain access to a subset of profile information.

Claim 19. The method according to claim 18, wherein the service provider is charged a fee for obtaining the subset of profile information.

Claim 20. The method according to claim 18, wherein the service provider obtains the subset of profile information from a profile operator remotely located from the user device.

Claim 21. The method according to claim 20, wherein the allowing the service provider comprises:

determining a profile access level; and

transmitting the profile access level to the service operator,

wherein the service operator obtains a subset of profile information from a profile operator according to the profile access level.

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Claim 22. The method according to claim 21, wherein the determining a profile access determines the profile access level according a service category of the one or more service opportunities.

Claim 23. The method according to claim 21, wherein the determining a profile access determines the profile access level based upon a prior arrangement between the service operator and the user.

Claim 24. The method according to claim 18, further comprising updating the profile information of the user.

Claim 25. The method according to claim 24, wherein the profile information of the user is updated based on user information provided by the service operator.

Claim 26. The method according to claim 25, wherein the service operator is compensated for providing the user information.

Claim 27. The method according to claim 24, further comprising tracking user activity on the user device, wherein the profile information of the user is updated based on the tracked user activity.

Claim 28. The method according to claim 1, wherein the service opportunities recognized by the user are dynamically changed by the service provider.

Claim 29. The method according to claim 28, wherein the service opportunities recognized by the user are dynamically changed by the service provider according to profile information of the user.

Claim 30. The method according to claim 1, wherein the user device and the service operator communicate across a personal area network.

Claim 31. The method according to claim 1, wherein the user device comprises a mobile wireless device.

Claim 32. The method according to claim 1, further comprising receiving service from the service operator.

Claim 33. The method according to claim 32, wherein payment for the service obtained by the user is conducted anonymously.

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Claim 34. A method of managing user privacy in a network environment through a distributed user system including a user device and profile operator, comprising:

recognizing one or more service opportunities of a service operator on a user device operated by a user;

determining a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities on the user device;

determining a profile access level on the user device;

transmitting the profile access level to the service operator; and

enabling the service operator to obtain a subset of profile information of the user from a profile operator according to the profile access level,

wherein the recognizing occurs before the determining a privacy level, the determining a profile access level, the transmitting and the enabling.

Claim 35. The method according to claim 1, wherein the conducting the communications comprises controlling on a user side information communicated to the service operator at the privacy level.

Claim 36. The method according to claim 35, wherein the user device controls what information is sent from the device according to the privacy level.

Claim 37. A communications device of a user, comprising:

a communications interface for communicating across a network environment;

a memory; and

a processor that executes instructions stored in the memory for: recognizing one or more service opportunities of a service operator on a user device operated by a user, determining a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities of the service operator, and conducting the communications with the service operator at the privacy level through the communications interface,

wherein the recognizing occurs before the determining and the conducting.

Claim 38. A system comprising:

a communications device of a user including:

> a communications interface for communicating across a network environment,

> a memory, and

> a processor that executes instructions stored in the memory for: recognizing one

or more service opportunities of a service operator, determining a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities, determining a profile access level and transmitting the profile access level to the service operator, wherein the recognizing occurs before the determining a privacy level, the determining a profile access level, and the transmitting; and

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a profile operator for providing the service operator with a subset of profile information of the user according to the profile access level.

Claim 39. A server of a service operator, comprising:

a communications interface for enabling communications across a network environment with a user device operated by a user relating to one or more service opportunities of the service operator;

a memory; and

a processor that executes instructions stored in the memory for: receiving information corresponding to a profile access level of the user; and obtaining from a profile operator a subset of profile information of the user according to the profile access level,

wherein the user device is configured to recognize one or more service opportunities of a service operator, to determine a privacy level at which communications is conducted with the service operator relating to the one or more service opportunities, to determine a profile access level, and to transmit the profile access level to the service operator, wherein the recognizing occurs before the determining a privacy level, the determining a profile access level, and the transmitting.

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